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District Children's Home. In Ohio, the commissioners of two or more adjoining counties not exceeding four, may organize themselves into a joint board and form a district for the establishment and support of a children's home, which is governed by a board of five trustees appointed by the commissioners acting jointly.³⁹

Union Town Farms. In Maine, two or more adjoining towns may unite to maintain a union town farm for the employment and support of paupers, the overseers of the poor of the uniting towns composing a joint administrative board.⁴⁰

Public Utility Districts. In California, public utility districts may be organized consisting of incorporated or unincorporated territory in one or more counties of the state, if the ordinance providing for the creation of the district is approved by a majority of the resident electors. Such districts are designed to provide for the construction, ownership and operation of works to supply the inhabitants with light, water, power, heat, transportation, telephone service or other means of communication, or to provide for the disposition of garbage, sewage, storm water or refuse matter and for the organization and maintenance of public parks. The affairs of the district are in charge of three commissioners who may levy taxes, employ labor and have general charge of the public property so created.⁴¹

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Removal of Public Officers. A Ten-Year Review. The federal and state constitutions which have been adopted since the organization of our government have invariably provided for the removal of faithless public servants by a quasi-judicial process known as impeachment, for treason, bribery, negligence, incapacity and other high crimes and misdemeanors. Impeachment has proved to be a costly, dilatory and unsatisfactory process; comparatively few impeachment proceedings have ever been instituted; and in at least one state it has been definitely abandoned. In spite of a growing conviction that official delinquency was becoming more prevalent, and in spite, too, of the immunity afforded to unworthy public officers by an unresponsive and sluggish method of removal, no new or supplemental device was perfected until 1903 when a recall provision was incorporated in the Los Angeles charter. The

³⁹ Laws 1913, p. 894.

⁴¹ Laws 1913, p. 450.

⁴⁰ Laws 1913, p. 48.

wide-spread discussion of this well-known measure has quickened the public conscience and the legislatures which have met during the last ten years have been unusually enterprising and ingenious in devising and adopting new expedients for the discharge of dishonest and incompetent public officials, or in reviving methods which had temporarily fallen into abeyance and disuse. Moreover, the number of cases in which the machinery which has been provided may be invoked has been greatly increased, and acts of official delinquency and moral turpitude have been defined with greater particularity and precision.

A deliberate inspection of the legal literature covering the decade which has elapsed since the adoption of the celebrated recall provision of the Los Angeles charter discloses the significant fact that 33 states have either adopted new laws providing for the summary discharge of undutiful public officers, or have strengthened their old laws by the passage of vigorous amendments, or have somehow facilitated the power of removal. While the movement for an easy and expeditious removal of public officers has not been confined exclusively to the western states, it has, undoubtedly, achieved its greatest popularity in that section. This is evidenced by the fact that of the 33 states which have adopted such laws during the past ten years, 21 are western, 2 are southern and 10 are eastern. The number and variety of offenses for which a public officer may be removed have been greatly increased and differentiated and now include dishonesty, corruption, habitual drunkenness, gambling, delinquency, unprofessional or disorderly conduct, habitual and wilful neglect of duty, incompetence, disability, financial irregularity, gross partiality, oppression, extortion, maladministration, conscious obstruction to the due course of the administration of public affairs, malpractice, malfeasance, nonfeasance, misfeasance, conviction of a felony or misdemeanor or any other cause deemed sufficient.

Some half dozen effective but widely dissimilar methods have been devised for cashiering delinquent public officials, and the power of removal thereby conferred is vested in specially constituted impeachment tribunals, in the qualified electors themselves, in the governor of the commonwealth, in some designated court of competent jurisdiction, in an executive, administrative or legislative board or council, in the governor and state senate acting jointly, in the state legislature, in the executive head of a department and in the mayor of a city. Provision is also made for the mere ipso facto forfeiture of office. Judging from the comparative prevalence of these methods, we are justified in the conclusion that the most popular method of removal is the recall, the

least popular, impeachment, while removal by the governor or the courts are both in high favor.

Removal by Impeachment. The operation of the process of removal by impeachment is well known. Aside from the celebrated Sulzer case in New York, the only recent impeachment proceeding of any consequence was that of the Insurance Commissioner of the state of Washington, a performance which cost the commonwealth upwards of \$50,000.¹ In 1910, Oregon adopted a constitutional amendment prohibiting the impeachment of any public officer,² and only two States, Alabama and Nevada, have adopted any measures on the subject. In 1905, Alabama authorized the impeachment of solicitors and sheriffs who neglect to enforce the law providing for the detection and suppression of crime,³ and in 1909 Nevada provided for the impeachment of any civil officer of the State by a two-thirds vote of the General Assembly.⁴

Removal by the Plebiscite. The process of removal which is most generally employed and which has attracted the widest attention is known as the recall, a purely political device designed to provide for the discharge of a public official in the same manner in which he is elected, by submitting the question to a vote of the proper constituency. Los Angeles adopted this method in 1903, and a similar provision has since been adopted by 17 other cities and counties in California. In addition, 20 States including Arizona, California, Colorado, Idaho, Illinois, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Jersey, North Dakota, Ohio, Oregon, Washington, Wisconsin, and Wyoming have passed laws providing for the recall, although this does not seem to be the only form of removal which may be exercised in these states.

Removal by the Governor. The power of removal which is exercised by the governor has two rather interesting and characteristic aspects: The first relates to the nature of the process by which an official is removed, and the second to the classification of the officials upon whom this power is designed to operate. One process of removal is predominantly an executive or administrative function by which an official is summarily ejected from office. The other process is more clearly judicial in its character, the governor sitting as a court, hearing testimony, sifting evidence and ultimately exercising his authority after the manner of a judge. The officers whom the governor is authorized to remove

¹ Laws, Extra Session of 1909, pp.

7 and 59.

² Laws, 1905, p. 111.

³ Laws, 1908-9, p. 293.

⁴ Laws, 1910, p. 8.

clearly fall into two general classes: Those who have been elected by the people and those who have been appointed solely or concurrently by the governor. The former class have adhered most tenaciously to the vested interest theory of office. Moreover, these two aspects of the question appear in different combinations and will for convenience be so treated in this article.

1. Removal of Appointive Officers by Judicial Process. Removal of appointive officers by the governor, exercising his power by judicial process, affording a hearing to the accused, and providing for the accumulation and submission of pertinent testimony is in operation only in the State of Connecticut. The necessary investigations are instituted by the attorney-general who cites the accused before the governor and affords him the opportunity to show cause why he should not be removed.⁵

2. Removal of Appointive Officers by Executive Action. The power of the governor to remove public officers whom he has appointed is extensive and is authorized by 12 States, including Delaware, Iowa, Missouri, New Mexico, New York, Oregon, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming. In New York and Wyoming⁶ the governor is authorized to remove any officer or commissioner appointed by him and investigations instituted to ascertain the character of official delinquency in the former state have been so extensive that approximately \$30,000 has been appropriated since 1908 to defray the expense.⁷ In the other 10 States the governor's power is not so extensive and the specific officers over whom he is authorized to exercise the power of removal are designated. The list includes special constables and delinquent tax agents;⁸ inspectors of petroleum products and state fire marshals;⁹ members of the board of managers of any eleemosynary institution;¹⁰ state fair commissioners;¹¹ members of the state industrial accidents commission;¹² state commissioners of insurance;¹³ state cattle commissioner; members of the board of examiners of embalmers, state factory inspectors, members of the state board

⁵ Laws, 1907, p. 745.

⁶ Laws, 1905, p. 101.

⁷ Laws, 1903, p. 304; 1908, p. 1595; 1909, p. 1005; 1910, p. 1111 and 1913, p. 137.

⁸ Laws of Delaware, 1905-6, pp. 106 and 108; 1906-7, p. 7.

⁹ Laws of Iowa, 1904, p. 96 and 1911, p. 140.

¹⁰ Laws of Missouri, 1909, p. 574.

¹¹ Laws of New Mexico, 1913, p. 53.

¹² Laws of Oregon, 1913, p. 189.

¹³ Laws of Utah, 1909, p. 290.

of veterinary registration and examination;¹⁴ the state oil inspectors, state commissioners of horticulture and members of the public service commission;¹⁵ members of the board of directors of the penitentiary and state highway inspectors;¹⁶ free employment officers and members of the grain and warehouse commissions.¹⁷ In New Mexico and West Virginia the governor is likewise given authority to remove members of the Louisiana Purchase and Jamestown Exposition commissions.¹⁸ In Utah the governor is required to report all removals to the next legislature and during a recess of the legislature he may remove any officer appointed by him or by him with the consent of the senate.¹⁹

3. Removal of Elective Officers by Judicial Process. The governor is empowered to remove elective officers by quasi-judicial process in North Dakota, Ohio and Wyoming. In general, the officers comprised in this class include county officers, state's attorneys, public administrators, mayors, chiefs of police, deputy sheriffs and other police officers and custodians of public money. In North Dakota the state treasurer is specifically exempted and in Ohio state officers are included. On complaint by a certain number of qualified electors, an investigation is instituted by the state's attorney or the attorney-general and the results are presented to the governor. In North Dakota the governor appoints a special commission to accumulate and analyze the testimony.²⁰

4. Removal of Elective Officers by Executive Action. In Louisiana, Minnesota, Montana, New Mexico, South Dakota, Wisconsin, and New York a considerable number of elective officers are subject to summary removal by the governor. In South Dakota the power extends to all elective state, county, township, municipal and precinct officers not liable to impeachment except members of the legislature.²¹ In the other 6 States, collectors and custodians of public money are included as are also, in some cases, county officers, probate judges, municipal

¹⁴ Laws of Vermont, 1908, p. 149; 1910, p. 229; 1912, p. 297; 1910, p. 220 and 1912, pp. 243 and 287.

¹⁵ Laws of Washington, 1905, p. 315; 1909, p. 514 and 1911, p. 538.

Laws of West Virginia, 1913, p. 53.

¹⁶ Laws of West Virginia, 1903, p. 142 and 1907, p. 250.

¹⁷ Laws of Wisconsin, 1903, p. 707 and 1905, p. 37.

¹⁸ Laws of New Mexico, 1903, p. 226 and Laws of West Virginia, 1907, p. 252.

¹⁹ Laws of Utah, 1911, p. 64.

²⁰ Laws of North Dakota, 1913, p. 177. Laws of Wyoming, 1913, p. 63. Laws of Ohio, 1913, p. 851.

²¹ Laws 1909, p. 181.

judges, justices of the peace, members of the railroad commission, district attorneys and notaries public.²²

Removal by Courts of Competent Jurisdiction. In 11 States including Connecticut, Iowa, Kansas, Missouri, Montana, Nebraska, Nevada, Oregon, Utah, Wyoming and Ohio an officer against whom charges are preferred for alleged delinquency is given a hearing before a court of competent jurisdiction and the judge or the jury determines whether the offense with which he is charged is sufficiently flagrant to justify his removal. An action may be instituted by a state's attorney, the attorney-general, the grand jury, the governor, or by private citizens. The Iowa, Kansas, Missouri, Nebraska, Nevada, Ohio, Oregon and Utah laws are substantially identical. Practically all state, district, county, township or city officers are subject to removal. In Missouri the question is submitted to a jury, in Iowa the case is tried without the intervention of a jury. Except in the case of state officers, appeals lie to the higher courts and take precedence over all other matters.²³ In Connecticut, town clerks, town treasurers, highway commissioners, justices of the peace and constables are subject to removal by the superior or the levy court.²⁴ In Montana, the state inspector of mines is subject to removal if charges are preferred against him by 50 or more legal residents and sustained by the district court.²⁵ Wyoming provides for the dismissal of county commissioners only.²⁶ The procedure in removing commissioners of cities of the third class in Kansas is unique. If any one of the three commissioners "so conduct himself in office as to knowingly obstruct the due course of the administration of the affairs of the city," the other two commissioners may notify him in writing, specifying his objectionable acts, all of which is entered on the journal. If the delinquent commissioner remain obdurate and recalcitrant, his colleagues may join in a complaint to the judge of the district court, who is required to cite the offender within 10 days and give him the opportunity of showing cause why he should not be removed from office.²⁷

²² Laws of Louisiana, 1912, p. 168; Minnesota, 1913, p. 670; Montana, 1907, p. 86; New Mexico, 1903, p. 31, 128, 162, 177, 221 and 232; South Dakota, 1909, p. 181; Wisconsin, 1905, p. 768 and New York, 1903, p. 304.

²³ Laws of Iowa, 1911, p. 43 and 1909, p. 72; Kansas, 1911, p. 412; Missouri, 1907, p. 367; Nebraska, 1907, p. 306; Nevada, 1908-9, p. 293; Oregon, Const. Amend. Laws, 1910, p. 8; Utah, 1907, p. 5; Ohio, 1913, p. 851.

²⁴ Laws, 1909, p. 1034; 1911, p. 1610 and 1913, p. 809.

²⁵ Laws, 1911, p. 266.

²⁶ Laws, 1913, p. 63.

²⁷ Laws, 1913, p. 211.

Removals by the Governor and Senate or by the Legislature. In Iowa and Missouri certain officers may be removed by the governor and senate acting jointly or by the legislature acting alone. Any member of the state board of education of Iowa may be removed during a session of the General Assembly by the governor with the consent of a majority of the senate.²⁸ In Missouri any warehouse commissioner may be removed by the governor or by the legislature by a two-thirds vote of all members elected.²⁹ The bank commissioner may be suspended by the governor and removed if the governor succeeds in obtaining the consent of the Senate; in case of suspension, the governor reports his action to the Senate, and if they concur the commissioner is removed.³⁰

Removals by Executive Boards, Councils and Supervisors. Iowa, Maryland, Michigan, and Nebraska authorize executive boards, city councils or county supervisors to exercise the power of removal in certain cases. In Iowa, the executive council³¹ by a majority vote may remove members of the board of curators of the state historical society, the board of educational examiners, the director of the weather and crop service, the fish and game warden, members of the commission of pharmacy, members of the board of dental examiners, members of the board of parole, the dairy commissioner, the custodian of public buildings and property, the state veterinary surgeon, inspectors of petroleum products, members of the state board of medical examiners, inspectors of passenger boats, members of the board of optometry examiners, and members of the library commission.³² The city register of Baltimore may be removed by a majority vote of all members of the second branch of the city council upon charges preferred by the mayor.³³ In Michigan the boards of county supervisors by a two-thirds vote may remove any county officer for failure or refusal to give bond,³⁴ and the township board of any township containing a primary school district may remove any district officer within their jurisdiction.³⁵ In Nebraska, any member of the fire or police department may be removed by the board of fire and police commissioners, under such conditions as they may prescribe,³⁶ and in all cities having a population of from 5000 to 25,000 the engineer, attorney, street commissioner, fire chief, city physician, water commissioner, and members of the board of public works

²⁸ Laws, 1909, p. 167.

²⁹ Laws, 1913, p. 111.

³⁰ Laws, 1913, p. 111.

³¹ Governor, Secretary, Auditor, and Treasurer of State.

³² Laws, 1909, p. 72.

³³ Laws, 1908, p. 591.

³⁴ Laws, 1905, p. 140.

³⁵ Laws, 1909, p. 53.

³⁶ Laws, 1907, p. 64 and 102.

may be removed by a majority of the council with the approval of the mayor.³⁷ In Iowa all persons subject to the classified civil service in certain cities may be removed by the council.³⁸

Removals by the Mayor of a City. A law will be submitted to the voters of Newton, Massachusetts, at the next general election providing that the mayor of the city may suspend any executive officer and report his action and the reasons therefor to the board of aldermen within 14 days. If the board does not reinstate such officer within 15 days, he is considered removed.³⁹

Removal of Sheriffs in Cases of Lynching. The laws of Illinois, Indiana, and Ohio provide that if any person is taken from the custody of a sheriff and lynched, it shall be considered prima facie evidence that the sheriff has failed to do his duty and is cause for his removal.⁴⁰

Miscellaneous Power of Removal. In Connecticut, any counter, booth-tender, box-tender, ballot clerk or checker may be removed during an election by the registrars of voters.⁴¹ In 1908 Louisiana adopted a measure forbidding courts from granting writs of injunction maintaining persons in office who had been removed or restraining their successors from taking possession of the books and documents.⁴² Officers in attendance on the superior court in any county of Massachusetts may be removed by the sheriff of the county for cause approved by a majority of the justices of the superior court.⁴³ In Missouri any member of the board of excise commissioners in cities of 300,000 or over may be removed by the mayor or the governor at pleasure, or by the council for cause or by the courts as provided by law.⁴⁴ In New Mexico any county superintendent may be suspended by the state superintendent and if circumstances demand, removed by the governor;⁴⁵ likewise any officer who appoints a deputy or assistant who has been convicted of a felonious offense is removed from office.⁴⁶ In New York any deputy state superintendent of highways may be removed by the superintendent;⁴⁷ the state fish and game commissioner of Vermont may remove any county fish and game warden,⁴⁸ and in West Virginia any prosecuting attorney may remove his deputy.⁴⁹

³⁷ Laws, 1907, p. 107.

³⁸ Laws, 1907, p. 45.

³⁹ Laws, 1913, p. 100.

⁴⁰ Laws of Illinois, 1905, p. 191; Indiana, 1905, p. 686; Ohio, 1910, p. 109.

⁴¹ Laws, 1909, p. 1201.

⁴² Laws, 1908, p. 95.

⁴³ Laws, 1906, p. 127.

⁴⁴ Laws, 1913, p. 387.

⁴⁵ Laws, 1903, p. 232.

⁴⁶ Laws, 1912, p. 71.

⁴⁷ Laws, 1911, p. 1483.

⁴⁸ Laws, 1910, p. 201.

⁴⁹ Laws, 1909, p. 370.

Removal of Militia Officers. In Arizona the governor may discharge any militia officer upon address of both houses of the legislature or on recommendation of the board of examination.⁵⁰ Any commissioned officer of the Missouri militia may be removed on recommendation of his immediate commanding officer, or of the inspector general, or any general officer or the governor, by a board of five commissioned officers, one of whom is a surgeon.⁵¹ In Washington, staff officers may be removed by approval of the governor.⁵²

Forfeiture of Office. In New Jersey and Oregon the commission of certain misdeeds automatically deprives an incumbent of his office. In New Jersey any elective or appointive officer of the state, county or city forfeits his office for any misdemeanor involving moral turpitude.⁵³ In Oregon any member of a state board or commission who without valid reason fails to attend two consecutive meetings forfeits his office.⁵⁴

Removal of Attorneys. A cognate subject is the removal of attorneys. In Alabama, a prosecution for the removal or suspension of an attorney may be instituted by the state bar association or by the central council thereof.⁵⁵ In California an attorney or councillor may be removed or suspended by the supreme court or any department thereof, by any district court of appeals, or by any superior court.⁵⁶

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Codification and Revision of Statutes. The condition of the statutes of most of our American States is a disgrace. More and more, statutes have come to regulate the affairs of man and yet little effort has been made to make it possible for man to know the laws which govern him. Statutes are piled on statutes without clear distinction between what is in force and what has been repealed, and so indefinite in form and wording as to make interpretation impossible.

"Ignorance of the law excuses no one" and yet in most States the citizen must depend in many important matters upon the guess of the compiler or annotator. In many States compilations are prepared by private parties and are sold at exorbitant rates.

Codification and revision are resorted to spasmodically by the States to clarify the law but scarcely are the laws revised or codified when

⁵⁰ Laws, 1912, Regular Session, p. 443.

⁵¹ Laws, 1909, p. 682.

⁵² Laws, 1905, p. 436.

⁵³ Laws, 1913, p. 116.

⁵⁴ Laws, 1909, p. 185.

⁵⁵ Laws, 1903, p. 346.

⁵⁶ Laws, 1911, p. 848.